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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,952	11/16/2001	Eric Lee Musselwhite	5793.3076-00	7893
22852	7590	09/19/2007		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER KARMIS, STEFANOS	
			ART UNIT 3691	PAPER NUMBER
			MAIL DATE 09/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/987,952

Applicant(s)

MUSSELWHITE ET AL.

Examiner

Stefano Karmis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The following communication is in response to Applicant's amendment filed 22 June 2007.

#### ***Status of Claims***

2. Claims 1, 14, 15, 28, 29, 40 and 42 are currently amended. Claims 43-45 are newly added. Therefore claims 1-45 are currently pending.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "selected vendor" renders the claim indefinite because no vendor is actually selected in the claim. Instead the consumer is allowed to select a vendor, but the consumer never actually selects a vendor. Therefore there would be a lack of antecedent basis for "selected vendor."

Further regarding claims 1 and 10-14, the phrase "first fees" and "second fees" renders the claims indefinite because it is not clear whether the first and second fees of claims 10-13 are

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the same or related to the one or more fees adjusted in claim 1. Independent claims 15 and 29 and their dependents are rejected under similar reasoning as claim 1 and its dependents.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5-9, 14-17, 19-23, 28-31, 33-37 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maycock, Jr. et al. (hereinafter Maycock) U.S. Publication 2001/0047336 in view of Fowler et al. (hereinafter Fowler) U.S. Publication 2002/0026348.

Claims 1, 15 and 29, Maycock teaches a method for managing a financial account, comprising:

providing a consumer with the financial account having a first account component and a second account component, wherein the first and second account components have respective first and second account parameters associated with purchase transactions made by the consumer using the financial account (page 3, paragraph 0032-0034);

allowing the consumer to select a vendor to be associated with the first account component (page 3, paragraph 0033);

processing purchase transactions with the selected vendor based on the first account parameter (page 3, paragraph 0033 and page 4, paragraphs 0041-0042);

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processing purchase transactions with other vendors based on the second account parameter (page 3, paragraph 0033 and page 4, paragraphs 0041-0042).

Maycock fails to teach adjusting one or more fees charged to the financial account for purchase transactions with the selected vendor based on a number of purchase transactions with the selected vendor over a predetermined period of time. Fowler teaches combo-cards wherein a transaction and/or membership card may have one or more and preferable multiple AAPs and/or other marketing programs (page 11, paragraph 0083). Fowler further teaches a rate calculation for performing transactions at specific merchants including earning points on an escalating scale such as successive transactions at a merchant with a specified time period (page 10, paragraph 0075 and page 12, paragraph 0088).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Maycock to include adjusting one or more fees to the financial account for transactions with a selected vendor as taught by Fowler because it provides for loyalty between customer and merchant and therefore to increase customer satisfaction, retention and repeat business.

Claim 2, 16 and 30, Maycock fails to teach generating a billing statement reflecting an amount to be paid by the consumer based on the first and second account parameters, wherein the amount to be paid is reduced when based on the first account parameter. Fowler teaches generating a statement (page 5, paragraph 0039) and reducing an amount to be paid based on the account parameter (page 10, paragraph 0075 and page 12, paragraph 0088).

Claims 3, 17 and 31, Maycock teaches wherein the financial account is a credit card account and the consumer may select any vendor that accepts purchases using the credit card account (page 1, paragraph 0013 and page 3, paragraph 0033).

Claims 5, 19 and 33, Maycock teaches wherein the purchase transactions are associated with one of: (i) an internet-based purchase transaction; (ii) a point-of-sale purchase transaction; (iii) a purchase transaction made over a telephone; and (iv) a purchase transaction made using conventional mail (page 2, paragraph 0018-0019 and Figure 2).

Claims 6, 20 and 34, wherein allowing the consumer to select a vendor further comprises: presenting an offer for the financial account to the consumer, wherein the offer includes a request to select a vendor to be associated with the financial account (page 3, paragraph 0033).

Claims 7, 21 and 35, wherein the request includes a list of vendors, and wherein the consumer may select the vendor from the list (page 3, paragraph 0033).

Claims 8, 22 and 36, wherein the request includes a list of vendors, and wherein the selected vendor is not included in the list (page 3, paragraph 0033).

Claims 9, 23 and 37, wherein the financial account includes an available balance that is adjusted based on the purchase transactions with the selected and other vendors (page 3,

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paragraph 0035).

Claims 14, 28 and 42, Maycock fails to teach adjusting one or more fees charged to the financial account for purchase transactions with the selected vendor based on a number of purchase transactions with the selected vendor over a predetermined period of time. Fowler teaches combo-cards wherein a transaction and/or membership card may have one or more and preferable multiple AAPs and/or other marketing programs (page 11, paragraph 0083). Fowler further teaches a rate calculation for performing transactions at specific merchants including earning points on an escalating scale such as successive transactions at a merchant with a specified time period and reducing fees/providing discounts (page 10, paragraph 0075 and page 12, paragraph 0088).

Claims 43-45, wherein adjusting one or more fees includes removing one or more fees charged to the financial account for purchase transactions with the selected vendor based on a number of purchase transactions with the selected vendor over a predetermined period of time (page 10, paragraph 0075 and page 12, paragraph 0088).

7. Claims 4, 10-13, 18, 24-27, 32 and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maycock, Jr. et al. (hereinafter Maycock) U.S. Publication 2001/0047336 in view of Fowler et al. (hereinafter Fowler) U.S. Publication 2002/0026348 in further view of Yun et al. (hereinafter Yun) U.S. Publication 2002/0069122.

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Claims 4, 18 and 32, Maycock in view of Fowler teaches associated account parameters with selected merchants as discussed above. Maycock in view of Fowler fails to teach wherein the first account parameter is a first interest rate and the second account parameter is a second interest rate different from the first interest rate. Yun teaches a financial account management system wherein once account is used to a plurality of account components (credit card types) which have first and second account parameters (interest rates) (page 6, paragraph 0060, page 7, paragraph 0062 and Figure 3). Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Maycock in view of Fowler to include the teachings of Yun because it provides for increased customer satisfaction when processing purchases among available accounts and account parameters.

Claims 10, 24 and 38, Yun teaches applying first fees to the financial account for purchase transactions with a vendor based on the first account parameter (page 6, paragraph 0060, page 7, paragraph 0062 and Figure 3).

Claims 11, 25 and 39, Yun teaches wherein processing purchase transactions by applying second fees to the financial account for purchase transactions with the other vendors based on the second account parameter, wherein the second fees are higher than the first fees (page 6, paragraph 0060, page 7, paragraph 0062 and Figure 3).

Claims 12, 26 and 40, wherein the first and second account parameters are first and second interest rates, respectively, wherein the first interest rate is lower than the second interest



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rate (page 6, paragraph 0060, page 7, paragraph 0062 and Figure 3).

Claims 13, 27 and 41, wherein the first and second account parameters include first and second finance charges, respectively (page 6, paragraph 0060, page 7, paragraph 0062 and Figure 3).

### *Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

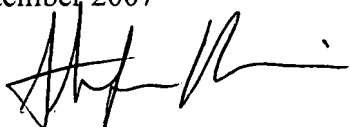
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted  
Stefano Karmis  
04 September 2007

  
**HANI M. KAZIMI**  
**PRIMARY EXAMINER**